

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 793 of 1986

Date of decision: 26-2-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KIRANCHANDRA J MODI

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioners
None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/02/98

ORAL JUDGEMENT

Heard the learned counsel for the petitioner.

The petitioners who were working in the Vijay Mills Co. Ltd., Ahmedabad, have filed this special civil application and challenge has been made to the order of the respondent Company under which their services came to be terminated. Order of the termination passed in respect of petitioner No.1 has been produced on record of this special civil application. The petitioners have given out that by similar orders the services of all the petitioners have been terminated.

2. The only contention raised by the learned counsel for the petitioners in this case is that before terminating the services of the petitioners provisions of section 25N of the Industrial Disputes Act, 1947 have not been complied with. Three months' notice was not given which was condition precedent for terminating the services of the workmen by the industry.

3. Respondent No.2 is a company incorporated under the provisions of the Companies Act, 1956. Learned counsel for the petitioner has failed to show how this Company can be treated as 'State' or 'instrumentality of State' or 'agency of State' within the meaning of Article 12 of the Constitution of India. Learned counsel for the petitioner is unable to satisfy this court how the Company is amenable to the writ jurisdiction of this court. State of Gujarat has been impleaded as party to the petition. But if we go by the prayers made by the petitioners in this special civil application, substantial prayer has been made against respondents No.2 and 3. The only prayer which has been made against respondent No.1 is for direction to take action against respondents No.2 and 3 for noncompliance with Sections 25N of the Industrial Disputes Act, 1947. There is another ground on the basis of which the petitioners cannot be granted any prayer. The petitioners have challenged the termination of their service on the ground of violation of the provisions of section 25N of the Industrial Disputes Act. It is settled law that in such matters, the remedy which is provided under the same Act has to be resorted to. So many disputed questions of fact have to be gone into before reaching the conclusion whether the provisions of section 25N of the Industrial Disputes Act, 1947 have been complied with or not, for which proper remedy would have been to raise industrial dispute.

4. Taking into consideration the totality of the facts of the case, no case is made out for interference

of this Court in the matter. The special civil application is dismissed. Rule discharged. No order as to costs.

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